

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

August 20, 2002

DIVISION ONE

Court convened at 9:00 a.m.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Mallano, J., Rico, J. (Assigned) and D. Nolan, Deputy Clerk.

Each of the following:

B152414 People v. Marvin M.
B153683 In re Graham A./DCFS v. Dan A.
B156007 In re Erick Z./DCFS v. JoAnn Z.

Argument waived, cause submitted.

B154846 Todd Byer
 v.
 Robert Carter, et al.

Merits:
Argued by Julia L. Birkel for respondents. No appearance by Valerie Byer-Taylor for appellant. Cause submitted.

Ortega, J. leaves the bench.

Rico, J. (assigned) leaves the bench.

B152403 Eugene M. Wilkison III
 v.
 Cynthia Ruth Wilkison Wiederkehr

Merits:
Argued by Gary C. Wunderlin for appellant and by Joseph M. Hartley for respondent. Cause submitted.

DIVISION ONE (Continued)

Ortega, J. returns to the bench.

B152346 Larry Weathers
 v.
 Washington Mutual Bank FA

Merits:
No appearance by either counsel. Cause submitted.

B154038 Robin J. Stern
 v.
 Michael Stern

Merits:
Argued by Stephen A. Kolodny for appellant and by Robert L. Schibel for respondent. Cause submitted.

Ortega, J. leaves the bench.

B145563 Parker R. Herriott
 v.
 State Board of Control, et al

Merits:
Argued by Parker R. Herriott, in pro per for appellant and by Jessica K. Frazier for respondents. Cause submitted.

Ortega, J. returns to the bench.

B155962 Apex Digital
 v.
 Hub Group, Inc., et al

Merits:
Argued by Kenneth R. O'Rourke for appellant and by Duane R. Lyons for respondents. Cause submitted.

DIVISION ONE (Continued)

B151868 Joel Fine, M.D.
 v.
 Children's Hospital Los Angeles

Merits:
Argued by Douglas B. Schwab for appellant and by J. Robert Liset for respondent. Cause submitted.

Mallano, J. leaves the bench.

B157650 The Home Insurance Company
 v.
 Superior Court, Los Angeles County
 (Montrose Chemical Corporation of California, r.p.i.)

Merits:
Argued by David L. Mulliken for real party in interest and by Stephen P. Soskin for petitioner. Cause submitted.

Vogel, J. leaves the bench.

Rico, J. (assigned) returns to the bench.

B113194 Imperial Bank
B136138 v.
 Gilbert Dreyfuss et al.
 409 Olympic Building Partnership et al.

Merits:
Argued by Charles Hansen and Burton Senkfor for appellants, cross-complainants and respondents Gilbert Dreyfuss, by Annie Verdries for respondent, Imperial Bank, and by Marc J. Poster for respondents 409 Olympic Building Partnership, et al. Cause submitted.

Court adjourned.

August 20, 2002 (Continued)

DIVISION ONE (Continued)

[illegible]

The judgment is affirmed.

Mallano, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B150007 People (Not for Publication)
v.
Bolian

The three-year concurrent term imposed for count 2 is stayed. As modified, the judgment is affirmed. The trial court is directed to correct the abstract of judgment to reflect that count 2 pertained to the crime of assault by means likely to cause great bodily injury and that the three-year term imposed for count 2 is stayed pursuant to Penal Code section 654. The trial court is further directed to forward the corrected abstract of judgment to the Department of Corrections.

Mallano, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B151086 City of Rancho Palos Verdes, et al. (Not for Publication)
v.
Abrams

The judgment is affirmed. Each party to bear their own costs.

Mallano, J.

We concur: Spencer, P.J.
Ortega, J.

August 20, 2002 (Continued)

DIVISION ONE (Continued)

B156871 People (Not for Publication)
v.
Gill

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Mallano, J.

B157450 People (Not for Publication)
v.
Ray

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Mallano, J.

B152869 People (Not for Publication)
v.
Arlester H.

The judgment (order) is reversed insofar as it reflects a maximum confinement time of 15 years; in all other respects, the judgment is affirmed and the cause is remanded to the juvenile court with directions to recalculate the maximum confinement time based upon the sustained charges only and to correct its records accordingly.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Mallano, J.

August 20, 2002 (Continued)

DIVISION ONE (Continued)

B152002 People v. Leon V. (Not for Publication)

The order sustaining the petition is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Mallano, J.

B154176 People (Not for Publication)
v.
Hayes

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B152263 Rashti (Not for Publication)
v.
Davidson

The April 30, 2001, order is reversed and the cause is remanded to the trial court with directions to enter new orders (1) granting Albert Davidson's motion to vacate the attorney fee award, (2) denying the Rashtis' motion for attorney's fees, and (3) such other orders as may in the future be necessary and appropriate with regard to visitation. Albert Davidson is awarded his costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Mallano, J.

August 20, 2002 (Continued)

DIVISION TWO

[illegible]

The judgment is affirmed.

Nott, Acting P.J.

We concur: Doi Todd, J.
Ashmann-Gerst, J.

B156696 Truck Insurance Company (Not for Publication)
v.
S.C.L.A.
Managed Care Medical Group

The petition for writ of mandate is granted in part and denied in part. The trial court is ordered to vacate its order granting summary adjudication for MCMG, and to issue an order denying summary adjudication. The order to show cause is discharged, and the stay heretofore issued is dissolved. Truck is to recover its costs.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Nott, J.

B158240 Christina C., et al. (Not for Publication)
v.
Superior Court, Los Angeles County
(Los Angeles County Department of Children and Family Services, r.p.i.)

The petitions for writ of mandate are denied, and the order to show cause is discharged.

Doi Todd, J.

We concur: Boren, P.J.
Ashmann-Gerst, J.

August 20, 2002 (Continued)

DIVISION THREE

B152879 People (Not for Publication)
v.
Buller

The judgment (order granting probation) is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B153893 People (Not for Publication)
v.
Stoneham

The judgment is affirmed.

Kitching, J.

We concur: Klein, P.J.
Croskey, J.

B158750	Los Angeles County, D.C.S. v. Jorge Q.,
B159922	Los Angeles County, D.C.S. v. Maribel B.,

Filed order consolidating above captioned appeals.

B155814 Los Angeles County, D.C.S.
v.
Douglas A., et al.

Filed order granting motion to dismiss appeal. Appeal (notice of appeal filed January 15, 2002) is dismissed.

DIVISION FOUR

B148475 Iatridis (Not for Publication)

v.
City of Los Angeles et al.

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
 Hastings, J.

B150344 People (Not for Publication)

v.
Serrano

The orders are reversed and the matter remanded with directions to conduct further proceedings not inconsistent with the views expressed in this opinion.

Curry, J.

We concur: Vogel (C.S.), P.J.
 Epstein, J.

B149166 People (Not for Publication)

v.
Juan G.

For the foregoing reasons, we modify the judgment to limit appellant's maximum period of confinement to nine years. As modified, the judgment is affirmed.

Curry, J.

We concur: Vogel (C.S.), P.J.
 Epstein, J.

August 20, 2002 (Continued)

DIVISION FOUR (Continued)

B156882 People (Not for Publication)
v.
Fraire

For the foregoing reasons, the judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

[illegible]

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Curry, J.

B153207 Ellis
 v.
 Ellis

Filed order certifying opinion for publication.

B153194 Los Angeles County, D.C.S.
v.
Warren W.

Filed order denying petition for rehearing.

August 20, 2002 (Continued)

DIVISION FIVE

B155980 People (Not for Publication)
v.
Humberto Montano Canales

The judgment is affirmed.

Turner, P.J.

We concur: Armstrong, J.
 Mosk, J.

B151025 People (Not for Publication)
v.
Anthony Loran Perkins

The judgment is modified to stay the sentence as to count 6 pursuant to Penal Code section 654, subdivision (a). In all other respects, the judgment is affirmed. The clerk of superior court is to prepare an amended abstract of judgment, which reflects the stay of the count 6 sentence, and forward it to the Department of Corrections.

Turner, P.J.

We concur: Armstrong, J.
 Mosk, J.

B152595 People (Not for Publication)
v.
Humberto Montano Canales

The judgment is affirmed.

Turner, P.J.

We concur: Armstrong, J.
 Mosk, J.

August 20, 2002 (Continued)

DIVISION FIVE (Continued)

B154322 Los Angeles County, D.C.S. (Not for Publication)
v.
Susan J.

The order is affirmed.

Grignon, Acting P.J.

We concur: Armstrong, J.
Mosk, J.

B149568 Checkpoint (Not for Publication)
v.
Trong Nguyen, et al.

The judgment is affirmed. Respondent(s) to recover costs.

Armstrong, J.

We concur: Grignon, Acting P.J.
Mosk, J.

B155452 People (Not for Publication)
v.
Eddie Dean McIntyre

The judgment is affirmed.

Armstrong, J.

We concur: Grignon, Acting P.J.
Mosk, J.

August 20, 2002 (Continued)

DIVISION FIVE (Continued)

B152160 People (Not for Publication)
v.
Michael Grajeda

The court's order awarding restitution is ordered corrected as follow: The award to Hughes on count 3 is reduced from \$1,700 to \$1,600. The award to Knox on count 9 is reduced from \$156,000 to \$11,400. The award to the Jenkinse on count 10 is reduced from \$73,125 to \$400. The award to the Patterson's on count 11 is reduced from \$73,000 to \$4,400. The award to Marconi on count 12 is increased to a total of \$106,500. The award to the Rivera's on count 17 is reduced from \$134,036 to \$9,436. The award to Conti on count 13 is reduced to \$13,844. The victims in count 19 are Countrywide Mortgage, with a total restitution award of \$13,400; Conti Mortgage with an award of \$6,000; and Amresco with an award of \$8,400. The total amount of the award is now \$336,630. The clerk of the superior court is directed to prepare an amended abstract of judgment reflecting theses corrections and to deliver a coy of the amended abstract to the Department of Corrections.

The judgment of conviction is affirmed in all other respects.

Armstrong, J.

We concur: Grignon, Acting P.J.
Mosk, J.

B151637 People (Not for Publication)
v.
Brian Laban Stokes

The judgment is modified to reflect good time/work time presentence custody credits in the amount of 176 days-in addition to the 353 days of actual custody credits previously awarded-for a total of 529 days of presentence custody credits. The clerk of the superior court is ordered to prepare an amended abstract of judgment as set forth in this opinion and to forward a copy to the Department of Corrections. In all other respects, the judgment is affirmed.

Mosk, J.

We concur: Grignon, Acting P.J.
Armstrong, J.

August 20, 2002 (Continued)

DIVISION FIVE (Continued)

B150561 Richard Doherty, et al. (Not for Publication)
 v.
 Reuven Regev, et al.

The judgment is affirmed. Each party to bear their own costs.

Mosk, J.

I concur: Turner, P.J.
I dissent: Armstrong, J. (Opinion)

DIVISION SIX

B153254 Songer (Not for Publication)
 v.
 Bordan

The judgment (order) is affirmed. Costs are awarded to respondent.

Gilbert, P.J.

We concur: Yegan, J.
 Perren, J.

B153743 People (Not for Publication)
 v.
 Martinez

The judgment is affirmed.

Gilbert, P.J.

We concur: Coffee, J.
 Perren, J.

B158428 San Luis Obispo Department of Social Services
 v.
 Cheri Ann M.

Filed order of dismissal.

DIVISION SEVEN

B150942 Connie Froom (Not for Publication)
 v.
 Mitchell Froom

The judgment is affirmed.

Lillie, P.J.

We concur: Woods, J.
 Perluss, J.

B153457 People (Not for Publication)
 v.
 Jesus EnriquePonce Chavez

The judgment is affirmed.

Lillie, P.J.

We concur: Johnson, J.
 Woods, J.

B154155 People (Not for Publication)
 v.
 Michael Villanueva

The judgment is affirmed.

Lillie, P.J.

We concur: Woods, J.
 Perluss, J.

B143668 Lionel A. Daley (Not for Publication)
 v.
 Brotman Medical Center, et al.

The judgment is affirmed. Respondent(s) to recover costs.

Lillie, P.J.

We concur: Johnson, J.
 Woods, J.

August 20, 2002 (Continued)

DIVISION SEVEN (Continued)

B142985 Los Angeles County, D.C.S. (Not for Publication)

v.

La'Keyshema C.,

In re Sherena A., et al.

The judgment is affirmed.

Munoz, J. (Assigned)

We concur: Lillie, P.J.
 Woods, J.

B151560 Southern California Edison Co. (Certified for Publication)

B152003 v.

Public Utilities Commission
(Caithness Energy, r.p.i.)

The decision is affirmed in part and annulled in part. The part of the Decision No. 01-01-007 that imposes a GMM based formula for TLF's is affirmed. That portion of the Decision that places a 0.95 floor on the TLF is annulled.

Munoz, J. (Assigned)

We concur: Lillie, P.J.
 Perluss, J.

DIVISION EIGHT

B150002 People (Certified for Publication)

v.

Ortiz

Appellant's conviction for carjacking (§ 215, subd. (a)) is dismissed. In all other respects the judgment is affirmed. The clerk of the superior court is directed to prepare an amended abstract of judgment reflecting dismissal of the carjacking conviction and to forward a copy to the Department of Corrections.

Rubin, J.

We concur: Cooper, P.J.
 Boland, J.

August 20, 2002 (Continued)

DIVISION EIGHT (Continued)

B154684 Los Angeles County, D.C.S. (Not for Publication)
 v.
 Dave K.

The judgment is affirmed.

Rubin, J.

We concur: Cooper, P.J.
 Boland, J.

B149655 Badgerow (Not for Publication)
 v.
 City of Los Angeles, et al.

The judgment is affirmed. Respondent(s) to recover costs.

Rubin, J.

We concur: Cooper, P.J.
 Boland, J.

B153772 People (Not for Publication)
 v.
 Lewis

The judgment is affirmed.

Rubin, J.

We concur: Cooper, P.J.
 Boland, J.

August 20, 2002 (Continued)

DIVISION EIGHT (Continued)

B153273 People (Not for Publication)
v.
Guzman & Maravilla

For the reasons set forth above, the judgment is reversed as to both appellants only insofar as it imposed a seven-year term on the count 1 forcible rape charges and failed to stay the concurrent four-year terms on the count 4 burglary charges. The clerk of the superior court is directed to prepare a corrected abstract of judgment to that effect, then deliver copies of the corrected abstract to the Department of Corrections. In all other respects, the judgment is affirmed.

Rubin, J.

We concur: Cooper, P.J.
Boland, J.

B152244 Markey III (Not for Publication)
v.
Jonathan Club, et al.

The judgment is affirmed. Respondent(s) to recover costs.

Rubin, J.

We concur: Cooper, P.J.
Boland, J.

B151804 Wallace (Not for Publication)
v.
Southwest Airlines Co.

The judgment is reversed. Appellant(s) to recover costs.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

August 20, 2002 (Continued)

DIVISION EIGHT (Continued)

B157350 People (Not for Publication)
v.
Samson

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

B154146 People (Not for Publication)
v.
Rivas

The judgment is reversed.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

B151727 Wiesman (Not for Publication)
v.
Plutsky

The judgment is reversed. Appellant(s) to recover costs.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

B149984 People v. Moore (Not for Publication)

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

August 20, 2002 (Continued)

DIVISION EIGHT (Continued)

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The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

B143777 People (Not for Publication)
v.
Lopez

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

B147527 People
v.
Banjo

Filed order modifying opinion. (No change in the judgment)

B147527 People
v.
Banjo

Filed order denying petition for rehearing.

August 20, 2002 (Continued)

DIVISION EIGHT (Continued)

8-20-02

116956-02

The HONORABLE PAUL TURNER, Presiding Justice of the Court of Appeal Second Appellate District, Division Five, is hereby assigned to assist the Court of Appeal, Second Appellate District, **Division EIGHT**, as a Justice thereof, on the following dates:

August 20, 2002

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal justice, all petitions for rehearing arising out of such causes and matters.

This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

Dated August 20, 2002

Ronald M. George
Chief Justice of California and
Chairperson of the Judicial Council